IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 36925 of 2007(U)

PETITIONER:

T.R.VIJAYAN, DEPUTY RANGER,
PONGANAMKADU FOREST STATION,
P.O.KURICHIKKARA, THRISSUR.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENT:

THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, FOREST AND WILDLIFE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI. BEJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 36925 of 2007

Dated this the 13th December, 2007

J U D G M E N T

Petitioner was appointed as Forest Guard in the Forest Department on advice by the P.S.C. Thereafter, he was promoted as Forester and Deputy Ranger. Further promotion post is that of Ranger. Appointment to the post of Ranger is either by direct recruitment or by promotion from Deputy Rangers and Foresters who had undergone Rangers Training. 25% of the vacancies are earmarked for promotees but Rangers training is necessary for being promoted to the said post.

2. Public Service Commission issued a notification inviting applications from among the Deputy Rangers and Foresters to undergo Rangers Training. Eligibility was to be certified on completion of probation. Petitioner was included in Exhibit P1 rank list, as Rank No.16. Apparently, the ranking in Exhibit P1 was challenged before this Court in several writ petitions, inter alia, on the ground that probationers in the category of Foresters cannot be included in the rank list. Challenge was repelled by this Court in Exhibit P2 judgment and confirmed in Exhibits P3 and P4.

3. In appeal before the Supreme Court, Exhibits P2, P3 and P4 were reversed and the Supreme Court held that the selection of the contesting respondents for training was wrong. But in the meanwhile, such persons had already undergone training and therefore, the Hon'ble Supreme Court made it clear that such persons, who had undergone training, will not steal a march over the appellants before the Court. Therefore, the petitioner's challenge against inclusion of such persons in the rank list was ultimately upheld. But in the meanwhile, Special Rules were amended and acquisition of degree in Science Subject was included as a necessary educational qualification. Unfortunately for the petitioner though he was qualified in terms of the Special Rules when Exhibit P1 list was published, he did not have the educational qualifications required for the post in terms of the amended rules. Delay in sending the petitioner for training was illegal going by Exhibit P5 judgment.

4. In circumstances where under the amended special rules, the petitioner cannot be sent for training, he has moved the Government for relaxation of the qualifications invoking the power of the Government under Rule 39 of Part II

of the K.S. & S.R. I am of the view that this is a fit case where the Government should consider the request made by the petitioner invoking the power under rule 39 of Part II of the K.S.& S.R.

After having heard the learned Government Pleader also, this writ petition is disposed of directing the respondent to take note of Exhibit P5 judgment and the directions of the Hon'ble Supreme Court in the operative portion of the judgment and take a decision on Exhibit-P6 within two months from the date of receipt of a copy of this judgment. The petitioner shall also be heard, if there is a proposal to pass an order rejecting the request made by the petitioner.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007